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Subject: More on Cargill's 370-page attack on the Bay

Part two of our analysis of Cargill's legal maneuvering. If you missed Part 1, see <http://blog.savesfbay.org/2012/09/cargills-370-page-attack-on-the-bay/>

Cargill's 370-page attack on the Bay-Part 2

January 16, 2013



The Redwood City salt ponds, full of water. Credit: Stephen Knight

Back in September, I wrote about the 370-page attack on San Francisco Bay by Cargill and its Arizona-based luxury housing developer DMB Associates. These powerful companies are currently maneuvering to avoid key federal environmental rules like the Clean Water Act from applying in any way to salt ponds in San Francisco Bay.

That post was focused on Cargill's incredible argument that the Bay water that evaporates in these ponds to make salt (see photo) is not "water" at all. Instead, their lawyers call it "brine" or use other euphemisms. A lawyer for the developer told a reporter that my post was "completely wrong" but then confirmed the opposite, stating that Cargill/DMB seek to make the case that the site is "not subject to the Clean Water Act or the Rivers and Harbors Act."

So, no amount of legalese can change the fact that Cargill's salt is made from San Francisco Bay water brought into its salt ponds, where it is held and evaporated behind levees. Right?

In fact, **Cargill's remarkable filing to the Environmental Protection Agency and US Army Corps of Engineers also includes other manipulative, incredible claims**, such as that the pond levees do not exist for the sake of "impounding" water:

The Salt Plant is not "impounding" (i.e., "collecting" or "confining") anything. It is more akin to an "expoundment" because it excludes or keeps "out" (as opposed to confining "in") waters of the United States.... It does not retain or impound such waters and their containment behind the levees would be entirely contrary to the function and purpose of the Salt Plant." (pg 50-51)

It would be interesting to hear Cargill's lawyers explain how their position is strengthened by putting quotation marks around simple words like "in" and "out." But Cargill is convinced it is above the law, so don't expect an answer any time soon. These transparently self-serving arguments are almost funny. But not quite. Because this matter is deadly serious for the Bay.

Cargill's partner DMB continues to insist that they will soon be back with their massively controversial project. **Please don't let Cargill get away with it - spread the word**.

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